

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
	)	
Numbering Resource Optimization	)	CC Docket No. 99-200
	)	
Connecticut Department of Public Utility	)	RM No. 9258
Control Petition for Rulemaking to Amend	)	
the Commission's Rule Prohibiting	)	
Technology-Specific Or Service-Specific	)	
Area Code Overlays	)	
	)	
Massachusetts Department of	)	NSD File No. L-99-17
Telecommunications and Energy Petition	)	
for Waiver to Implement a Technology-	)	
Specific Overlay in the 508, 617, 781, and	)	
978 Area Codes	)	
	)	
California Public Utilities Commission and	)	NSD File No. L-99-36
the People of the State of California Petition	)	
for Waiver to Implement a Technology-	)	
Specific or Service-Specific Area Code	)	

REPLY COMMENTS OF TELIGENT, INC.

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**REPLY COMMENTS OF TELIGENT, INC.**

Teligent, Inc. ("Teligent"), by its attorneys, hereby submits the following reply to the Comments filed in response to the *Notice of Proposed Rulemaking* in the above-captioned proceeding.<sup>1</sup> As a nationwide, facilities-based competitive local exchange carrier ("CLEC") that has initiated service in 30 of the country's top markets and is in the process of launching service in another 10 markets by the end of 1999, Teligent is intimately familiar with the impact that scarce numbering resources have on customers and carriers. In general, Teligent continues to fully support the Commission's goal of increasing the efficiency with which telecommunications

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<sup>1</sup> *Notice of Proposed Rulemaking*, CC Docket No. 99-200, 1999 FCC LEXIS 2451, FCC 99-122 (Released June 2, 1999) ("NPRM").

carriers use telephone numbering resources. The Commission, however, must ensure that any measures taken are competitively neutral.

### **Rate Center Consolidation**

Teligent joins the numerous parties supporting Commission encouragement of rate center consolidation. For example, Winstar Communications, Inc. ("Winstar"), states that rate center consolidation has been shown to be one effective way to forestall exhaust of the numbering resource by reducing the number of initial codes that CLECs must obtain.<sup>2</sup> AT&T Corp. ("AT&T") also supports the implementation of rate center consolidation to the greatest extent possible because it can extend the life of an existing area code and also complements other number optimization measures, such as number pooling.<sup>3</sup>

While Teligent supports rate center consolidation it does not advocate federally mandated or controlled consolidation because of the case-by-case basis under which rate center consolidation must be reviewed. Instead, as noted in the ALTS comments, all decisions as to whether and how to implement rate center consolidation should be left to the states.<sup>4</sup>

The lower initial utilization rates of NXXs by CLECs is largely the function of the requirement that CLECs obtain a NXX code in each rate center in which it is seeking to offer service. CLECs with one switch in a given market do not need more than one NXX code to initially operate. In fact, Teligent would be able to serve parts of three different states using a single switch and a single NXX code. Because the ILECs have developed the rate center system, however, Teligent has no choice but to request numbers in each rate center in which it intends to

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<sup>2</sup> Winstar Comments at 11.

<sup>3</sup> AT&T Comments at 33.

<sup>4</sup> ALTS Comments at 21.

do business. Teligent, like all new carriers, is forced to adhere to a system that was designed for use by one carrier and is inefficient in a competitive marketplace.

Because the lower initial NXX utilization rates of CLECs is the result of the inherent flaws of the rate center system—it is a symptom, not the cause—any measures taken by the Commission to increase the efficiency of telephone numbering should include a critical examination of the current rate center system. Rate center consolidation would result in increased utilization of initial codes and eliminate the need for more discriminatory actions such as restricting codes based on utilization rates or selectively imposing thousands-block number portability.

### **Mandatory Ten-Digit Dialing**

Teligent continues to fully support the Commission's requirement for mandatory ten-digit dialing for all local calls in areas served by area code overlays.<sup>5</sup> Allowing seven-digit dialing in an overlay area gives an unfair advantage to those carriers that were allocated numbers in the original NPA within the market.<sup>6</sup> When established businesses can be reached using seven-digit dialing, while "new businesses" can only be reached using ten-digit dialing, there is a customer preference for a number in the original NPA. Because the incumbent carriers hold the vast majority of NXXs in the original NPA, seven-digit dialing gives them an advantage in attracting new customers and retaining customers needing additional lines.

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<sup>5</sup> See Teligent's Comments filed in response to Common Carrier Bureau Seeks Comment on North American Numbering Council Report Concerning Telephone Number Pooling and Other Optimization Measures, *Public Notice*, DA 9802265, NSD File No. L-98-134 (rel. Nov. 6, 1998).

<sup>6</sup> NPRM at 55, ¶ 122; See Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, *Second Report and Order and Memorandum Opinion and Order*, CC Docket No. 96-98, 11 FCC Rcd 19392, 19518 (1996).

Teligent agrees with those Commenters who support the Commission's current requirement for mandatory ten-digit dialing for all local calls in areas served by area code overlays. For example, AT&T states that the "local dialing disparity that results from implementation of overlays in the absence of mandatory 10-digit dialing causes substantial customer confusion, and lessens the likelihood that customers will switch to competing carriers."<sup>7</sup> For these reasons, the Commission has wisely recognized that ten-digit dialing is essential to mitigate the anticompetitive impacts of area code overlays. Moreover, Winstar notes that although ten-digit dialing may make only a comparatively minor contribution to the delay of NANP exhaust, it facilitates a number of other measures that contribute substantially to forestalling number exhaust and the development of local competition.<sup>8</sup>

The Commission's mandatory ten-digit dialing requirements are specifically designed to prevent anticompetitive impacts on new entrants that may have few or no numbers in the original NPA. Few of the Comments filed in support of eliminating mandatory ten-digit dialing in overlay areas even address the anticompetitive issue.<sup>9</sup> Furthermore, those Comments that do address the anticompetitive issue are unpersuasive. For example, SBC Communications Inc. ("SBC") states that while the anticompetitive concern may have been legitimate in 1996, it is not a concern today because as a result of local number portability it is an issue only in a small fraction of situations where a customer is establishing new service or needs new lines.<sup>10</sup>

SBC's argument is completely self-serving because customers requiring new service and adding additional lines represent the one market segment that is not already captive to SBC as the incumbent carrier. Furthermore, CLECs are on a more equal footing with ILECs with

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<sup>7</sup> AT&T Comments at 36.

<sup>8</sup> Winstar Comments at 20.

<sup>9</sup> See, for example, Comments of MediaOne Group, Inc. at 28, Comments of Cox Communications, Inc. at 20.

<sup>10</sup> SBC Comments at 101-102.

respect to customers that do not already have an existing relationship with an ILEC. As such, giving the incumbent carriers an advantage in attracting these customers would be anticompetitive. For these reasons, Teligent continues to support mandatory ten-digit dialing in overlay areas and opposes any attempt to relax this requirement.

### **Number Pooling**

Teligent, along with numerous other Commenters in this proceeding, strongly supports a Commission requirement that all LNP-capable carriers engage in thousands-block number pooling in the largest 100 MSAs and opposes any delegation to state public utility commissions of the decision of whether to implement pooling in a given area.<sup>11</sup> As a nationwide CLEC, Teligent knows first-hand how state-by-state differences impact all aspects of launching and providing service. Federally mandated thousands-block number pooling in the largest 100 MSAs will increase national consistency, thereby reducing the costs of launching nationwide service. By making thousands-block number pooling mandatory in the largest 100 MSAs, the Commission can eliminate the inevitable delay that would result from delegating to the state public utility commissions the decision of whether to implement pooling. Teligent also supports Winstar's proposal to prohibit number pooling outside the largest 100 MSAs because haphazard deployment by state public utility commissions of number pooling will be costly to carriers and consumers alike.<sup>12</sup>

In addition, Teligent agrees with those Commenters who support national uniform pooling standards. For example, Winstar states that national rules are crucial to provide a

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<sup>11</sup> See Comments of Time Warner Telecom at 6-10; MediaOne Comments at 22; AT&T Comments at 39-49.

<sup>12</sup> Winstar Comments at 26.

uniform, consistent and cost-effective pooling system.<sup>13</sup> AT&T also properly notes that national procedures will allow system and network changes to be made in a timely and efficient manner without imposing needless pooling-related costs on the industry.<sup>14</sup>

Moreover, Teligent fully agrees with those Commenters who strongly oppose using utilization thresholds to determine which carriers will not be required to participate in thousands-block number pooling. Like most of SBC's proposals, the one to use utilization thresholds would effectively discriminate against new entrants by limiting the application of the restrictions to CLECs and other new entrants. SBC counters that the Commission should recognize that any cost-effective numbering optimization policy must be focused on the underutilized resources in the current numbering system.<sup>15</sup> Instead, Teligent urges the Commission to focus on the reason CLECs experience lower utilization rates than ILECs.

Without a doubt, and as noted above, the chief cause of lower NXX utilization rates of NXX codes by CLECs is the antiquated rate center system employed by the ILECs. The Commission, therefore, should focus on rate center consolidation and the eventual separation of the call rating functions from the call routing functions. This separation would allow carriers with intelligent networks to free themselves of the limitations of the rate center system and reduce the number of NXX codes required to launch and expand operations in a market. Until this separation can be achieved, however, the Commission should focus on other shorter term solutions to the numbering resource issues that the industry is facing. Thousands-block number pooling is one solution in which all carriers can participate in a competitively neutral manner. As such, Teligent agrees with those Commenters who urge the Commission to require all LNP-capable carriers engage in thousands-block number pooling in the largest 100 MSAs.

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<sup>13</sup> Winstar Comments at 25.

<sup>14</sup> AT&T Comments at 39.

## Verification of Need for Numbers

Teligent also agrees with those Commenters that oppose limiting access to growth codes by establishing utilization thresholds. For example, Level 3 Communications, Inc.'s ("Level 3") properly notes that utilization thresholds will have a greater impact on new market entrants (CLECs) than on established providers of telecommunications services (ILECs) because it is universally accepted that ILECs have higher utilization rates than CLECs.<sup>16</sup> The ILEC's high utilization rates are simply a function of the fact that most of the ILECs' NXX codes have been opened longer than the CLECs' NXX codes. To place restrictions on CLECs merely because they are new to the market would effectively frustrate the competitive goals of the Commission and the Telecommunications Act of 1996.

In the event that the Commission nevertheless adopts utilization thresholds, Teligent agrees with the Comments of Winstar and Cox Communications, Inc. ("Cox"), who, among others, propose lower fill rates for new entrants. Winstar properly notes that uniform fill rates would be competitively biased or wasteful. "Rather, consideration should be given to new entrants for a period of time after initial entry."<sup>17</sup> Likewise, Cox notes that if the Commission were to adopt uniform fill rates, "it would create competitive disadvantages for newer and more rural carriers. Such a policy would be contrary to the requirement that numbering administration be competitively neutral."<sup>18</sup>

Finally, Teligent strongly opposes the calculation of any utilization levels on an NPA-wide basis. Use of an NPA-wide utilization rate would only exacerbate the faults of the rate center system to the competitive disadvantage of CLECs and other new entrants. The rate center

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<sup>15</sup> SBC Comments at 73.

<sup>16</sup> Level 3 Comments at 4.

<sup>17</sup> Winstar Comments at 36.

<sup>18</sup> Cox Comments at 23.



system requires CLECs to obtain NXX codes on a rate center basis. Under such a system it is possible for a new entrant in a market to have a NPA-wide utilization rate below a set threshold while at the same time having fully exhausted its NXX codes at a particular rate center. As such, it would be inherently unfair to calculate number utilization on a NPA-wide basis when NXX codes are required and obtained on a rate center basis.

WHEREFORE, consistent with the majority of the comments in this proceeding, Teligent respectfully urges the Commission to adopt competitively neutral number conservation measures and reject the use of utilization thresholds to restrict the assignment of NXX codes.

Respectfully submitted,

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